



1 I, Lisa T. Belenky, declare as follows:

2 1. I am an attorney of record for Plaintiff Center for Biological Diversity (the "Center") in  
3 this matter.

4 2. I am a staff attorney for the Center. I submit this declaration in support of the Center's  
5 Response to the Newhall Land and Farming Company's Motion to Intervene in this action. The facts  
6 stated herein are personally known to me and, if called as a witness, I would and could competently  
7 testify thereto.

8 3. On or about February 11, 2008, I was contacted by David Hubbard and Mark Dillon,  
9 attorneys for the Newhall Land and Farming Company ("Newhall"). Mr. Hubbard and Mr. Dillon  
10 indicated that Newhall was interested in intervening in this case, and that they wanted to determine the  
11 Center's position regarding Newhall's intervention. I stated that they should submit a proposal  
12 outlining Newhall's interest in this case and describing any limits that could be placed on intervention  
13 as a basis for the Center's non-opposition.

14 4. Mr. Hubbard subsequently prepared a letter, dated February 21, 2008, outlining  
15 Newhall's interest in this case, stating that Newhall will agree not to expand the issues beyond those  
16 touching on interim relief, and requesting that the Center stipulate to intervention on these terms.

17 5. In response to Mr. Hubbard's letter, I prepared a response dated February 29, 2008.  
18 The response stated that the Center "would not object to limited intervention by Newhall solely on  
19 issues regarding the scope of interim relief in this action as stated in your letter." A true and correct  
20 copy of the response is attached hereto as Exhibit 1.

21 6. The February 29, 2008 letter accurately reflects the Center's current position regarding  
22 Newhall's intervention.

23 I declare under penalty of perjury under the laws of the State of California that the  
24 foregoing is true and correct and that this declaration was executed on March 24th, 2008, in San  
25 Francisco, California.

26  
27 s/ Lisa T. Belenky  
28 Lisa T. Belenky

# EXHIBIT 1



CENTER for BIOLOGICAL DIVERSITY

---

***VIA ELECTRONIC MAIL and U.S MAIL***

February 29, 2008

David Hubbard  
Gatzke, Dillon & Balance LLP  
1525 Faraday Ave, Suite 150  
Carlsbad, CA 92008  
[dhubbard@gdandb.com](mailto:dhubbard@gdandb.com)

**Re: CBD v. FWS, Case No. 07-CV-02380-JM (AJB) (S.D. Cal), Challenge to Arroyo Toad Critical Habitat**

Dear David,

Thank you for your letter dated February 21, 2008, regarding the interests your client, Newhall Land and Farming Company, has in intervening in the above entitled action. As you note in your letter, liability is unlikely to be disputed in this case and the primary issues to be resolved are related to the remedies. You note that your client has a particular interest in any interim remedies that may be put in place during a remand period and that your client does not have any interest in “determining the FWS timetable for completing the new rule.” Further you state that “Newhall will agree not to expand the issues beyond those touching on interim relief.”

The Center for Biological Diversity would not object to limited intervention by Newhall solely on issues regarding the scope of interim relief in this action as stated in your letter. As part of such agreement, we would expect intervenors to agree to cooperate with all pending deadlines in this action some of which are rapidly approaching. For example, a Early Neutral Evaluation has been set by the Court for March 26, 2008, and settlement briefs are required to be submitted by the parties well before that time.

If these terms are agreeable to you, please send John Buse and me a copy of a draft stipulation or unopposed motion regarding intervention we will get back to you in a timely manner.

Sincerely,

A handwritten signature in black ink that reads "Lisa T. Belenky".

Lisa Belenky  
Staff Attorney

*Tucson • Phoenix • San Francisco • San Diego • Los Angeles • Joshua Tree • Silver City • Portland • Washington, DC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 24th day of March, 2008, I filed the foregoing document electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

Meredith Flax  
Email: [meredith.flax@usdoj.gov](mailto:meredith.flax@usdoj.gov)

Attorney for Defendants United States Fish  
and Wildlife Service and Dirk Kempthorne

David Hubbard  
Email: [dhubbard@gdandb.com](mailto:dhubbard@gdandb.com)

Attorney for Defendant-Intervenor  
Applicant Newhall Land and Farming  
Company

Dated: March 24, 2008

s/ John Buse  
John Buse (CA Bar No. 163156)  
CENTER FOR BIOLOGICAL DIVERSITY  
Email: [jbuse@biologicaldiversity.org](mailto:jbuse@biologicaldiversity.org)

Attorney for Plaintiff